

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**SHARON D. HAZELWOOD**

Claimant

VS.

**USD 259**

Respondent,  
Self-Insured

)  
)  
)  
)  
)  
)  
)

Docket No. 259,180

**ORDER**

Claimant appealed the April 12, 2001 preliminary hearing Order entered by Administrative Law Judge John D. Clark.

**ISSUES**

This claim, which was filed with the Division of Workers Compensation on September 21, 2000, alleges that claimant has developed respiratory and allergy-type symptoms as the result of exposure to chemicals at work. In the April 12, 2001 Order, Judge Clark denied claimant's request for benefits. The Judge held:

In order to have "sick building syndrome" there must be evidence of a sick building. This Court finds that the Claimant has not sustained her burden proving her physical problems were caused by any exposures to chemicals at work.

Claimant contends the Judge erred. Claimant argues that she is not required to prove "sick building syndrome" in order to prove she has been injured as a result of exposure to chemicals at work. Claimant contends that she has satisfied her burden of proving an accidental injury arising out of and in the course of employment. Therefore, claimant requests the Board to reverse the Judge's Order and to enter an order finding her claim compensable.

Conversely, respondent contends that claimant should be denied benefits. At the preliminary hearing, respondent's counsel summarized respondent's argument as follows:

Our position, Your Honor, is that the claimant has problems with asthma that are personal in nature to her and that it is inconsistent for her to be having problems in regards to chemical exposure with her employment with the district at Pleasant Valley Middle School. There is not a sick building

syndrome as it appears they are trying to allege because we don't have problems with students and other teachers. This is something specific as to claimant. So we would ask to not have benefits authorized.

The only issue before the Board on this review is whether claimant's present need for medical treatment is related to exposure to chemicals at work.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date, the Board finds and concludes:

1. The Order denying claimant benefits should be reversed.
2. Claimant has worked for the respondent school district for approximately 10 years. Approximately five years ago, claimant began working at Allison Middle School and experienced an incident when she walked into a second floor room and immediately began having skin irritation on her hands, arms and neck; eye irritation; and swelling in the area of her neck. Claimant immediately left the building and sought medical treatment. While waiting to see the doctor, claimant's symptoms began to improve. That was the first occasion that claimant could recall having those symptoms.
3. After the above incident, claimant continued to work at Allison Middle School and continued to experience similar symptoms. But the longer claimant worked at that school, the shorter time it took for the symptoms to develop.
4. Following her doctors' recommendations, claimant transferred from Allison Middle School to another school, Pleasant Valley Middle School. But despite that transfer, claimant continued to experience symptoms. Last fall, claimant had one particular incident where she experienced immediate symptoms after entering a room where students had recently cleaned their desktops with a certain cleanser. Claimant also noticed her problems improved when the school stopped using certain cleaning products in the rooms where she worked. During the summer of 2000, claimant did not work in either school and she did not have any symptoms.
5. In addition to seeing her personal physician, Dr. Timothy Koehler, claimant has also sought medical treatment from Dr. Jagadish Boggavarapu. Dr. Boggavarapu was selected by respondent as the primary treating physician and is with the Wichita Clinic.
6. In a November 29, 2000 letter from Dr. Boggavarapu to Dr. Koehler, the doctor noted that claimant's symptoms improved when she was away from the schools on holidays and weekends.
7. In a March 8, 2001 letter from Dr. Boggavarapu to claimant's attorney, which is the most recent medical opinion in the record, the doctor indicates that claimant has chronic asthma, sick building syndrome, and nonallergic rhinitis. The doctor also relates claimant's

ongoing symptoms to the exposure to chemicals at work and notes that claimant needs a jet nebulizer. The doctor's letter states, in part:

Because of the exposure to the chemicals at the school, she [claimant] was having frequent asthma exacerbations despite being on her maintenance medications. The short-acting rescue inhaler, Proventil, did not always relieve her asthma symptoms; therefore, I have recommended a jet nebulizer to use to administer the medication . . .

Therefore, I do recommend, and did recommend, that she have a nebulizer with her because of the frequency of asthma exacerbations was increasing and severity of the asthma episodes were increasing due to the recurrent exposure of chemicals at the workplace.

8. Based on Dr. Boggavarapu's opinion, which is the only expert medical opinion in the record, the Board finds and concludes that claimant has established that her ongoing symptoms are caused by an exposure to chemicals at work. Therefore, claimant is entitled to workers compensation benefits for that condition.

The Board is mindful that Tim Phares, who is respondent's supervisor of environmental services, testified on respondent's behalf that there was no problem with air quality and that the chemicals used in the schools, which are found in both household and commercial products, are of low toxicity and have minimal chance of getting into the air in any significant amount. But the Board is persuaded by Dr. Boggavarapu's expert medical opinions, along with claimant's history of symptoms, that establish a direct relationship between claimant's symptoms and the workplace.

**WHEREFORE**, the Board reverses the April 12, 2001 preliminary hearing Order and finds this claim compensable under the Workers Compensation Act. The Board remands this claim to the Judge to address claimant's request for benefits and to enter additional orders consistent with this decision.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 2001.

---

BOARD MEMBER

c: Gary A. Winfrey, Wichita, KS  
Robert G. Martin, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director